

1 **BERNALILLO COUNTY**

2 **BOARD OF COUNTY COMMISSIONERS**

3 **ORDINANCE NO. _____**

4
5
6 **AMENDING AND REPEALING CERTAIN SECTIONS OF WATER**
7 **CONSERVATION REQUIREMENTS SECTIONS 30-241 THOUGH SECTIONS**
8 **30-251**
9

10
11 **Section 1. PURPOSE AND INTENT**
12

13 To implement portions of the Bernalillo County Water Conservation Plan in order
14 to: reduce per capita water use; encourage responsible use of water; reduce water waste;
15 require conservation measures for new development and preserve water supplies within
16 Bernalillo County for the health safety and welfare of County residents. It is the intent of
17 Bernalillo County to follow the specifications of this ordinance when designing, building,
18 operating, and maintaining its own facilities.
19

20 Bernalillo County public policy is to encourage, support and protect
21 xeriscaping, efficient irrigation systems, and water conservation by
22 property owners and lessees. Restrictive covenants which require turf
23 grass or other high water use plants, or otherwise restrict, limit or increase the cost for
24 xeriscaping, efficient irrigation systems or water conservation by property owners or
25 lessees in any manner shall be considered contrary to public policy.
26

27 **Section 2. APPLICABILITY**
28

29 This ordinance applies to all persons, entities, and properties within
30 unincorporated Bernalillo County. Where a conflict exists between any of the regulations
31 or limitations prescribed in this ordinance and any other regulations applicable to the
32 same area, the more stringent limitation or requirement shall govern and prevail.
33

34 **Section 3. PENALTY FOR VIOLATION OF ORDINANCE**
35

36 Violations of this ordinance are punishable as provided in section 1-6 of this
37 Bernalillo County Code.
38

39 **Section 4. ENFORCEMENT**
40

41 (A) The County Manager or his/her designee shall be responsible for the
42 enforcement of this ordinance. The County Manager may prescribe policies, rules, or
43 regulations to carry out the intent and purposes of this ordinance.
44

CONTINUATION PAGE 2 AN ORDINANCE REPEALING AND AMENDING WATER
CONSERVATION REQUIREMENTS SECTIONS 30-241 THROUGH SECTIONS 30-251

(B) Water Customers of the Albuquerque Bernalillo County Water Utility Authority (ABCWUA) shall not be subject to enforcement of the same violation by both Bernalillo County and the ABCWUA.

Section 5. ADMINISTRATION

The Bernalillo County Manager is responsible for the administration of this ordinance. Powers assigned to the County Manager may be delegated by the County Manager to other appropriate County divisions and departments as deemed necessary to carry out the requirements of this ordinance. The County Manager or his/her designee is hereby authorized and directed to enforce all of the provisions of this ordinance. The County Manager or his/her designee shall have the power to render interpretations of this ordinance and to adopt and enforce rules and supplemental regulations to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this ordinance. The County Manager or his/her designee shall establish administrative procedures to carry out the intent and purpose of this ordinance.

Section 6. DEFINITIONS

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACTIVE RAINWATER HARVESTING. The use of collection systems, storage containers or cisterns to capture and store rainwater runoff for later use on the property.

ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY (ABCWUA). The Albuquerque Bernalillo County Water Utility Authority or its authorized agent. It includes the water and wastewater facilities and all operations and management of such facilities necessary to provide water and wastewater service.

ATHLETIC FIELD. Turf area which is used to hold athletic events or practices. Parks that have substantial areas used for athletic events or practices will be considered Athletic Fields.

BUBBLERS. Irrigation heads which deliver water directly to the soil adjacent to the heads.

BUILD GREEN NEW MEXICO PROGRAM (BGNM). A voluntary program to encourage homebuilders to use technologies, products and practices that will: provide greater energy efficiency, reduce pollution, provide healthier indoor air, preserve natural resources, improve durability, reduce maintenance and reduce water usage in new homes.

BUILD GREEN NEW MEXICO CERTIFICATION. Certification by the Build Green New Mexico program that all of BGNM current standards, documentation, and inspections have been met to achieve the water and energy conservation goals for the specified level.

**CONTINUATION PAGE 3 AN ORDINANCE REPEALING AND AMENDING WATER
CONSERVATION REQUIREMENTS SECTIONS 30-241 THROUGH SECTIONS 30-251**

1
2 **COMMERCIAL DEVELOPMENT.** Any retail, office, industrial, mixed use,
3 institutional, service or other non-residential building, facility or activity allowed as a
4 permissive or conditional use or by special use permit in accordance with the provisions
5 of the county zoning ordinance.

6
7 **DRIP IRRIGATION.** Low pressure, low volume irrigation applied slowly, near or at
8 ground level to minimize runoff and loss to evaporation.

9
10 **DROUGHT.** An extended period of low precipitation in an area which occurs in
11 sufficient length or magnitude to cause water shortages and/or crop damage.

12
13 **DROUGHT STATUS.** Level of drought as defined by the New Mexico Drought
14 Monitoring Committee. Four drought levels include; Drought Advisory, Drought Watch,
15 Drought Warning, and Drought Emergency.

- 16
17 (1) Drought Advisory
18 (2) Drought Watch
19 (3) Drought Warning
20 (4) Drought Emergency
21

22 **DWELLING UNIT.** A room or suite of rooms with kitchen and bath facilities designed
23 as a unit for occupancy by one family.
24

25 **ENERGY STAR.** A United States government-backed program that provides an energy
26 performance rating system for household appliances. Appliances with the Energy
27 Star label attached have met energy efficiency guidelines set by the United States
28 Environmental Protection Agency and the United States Department of Energy.
29

30 **EPA WATERSENSE.** A partnership program sponsored by the U.S. Environmental
31 Protection Agency (EPA) that helps consumers identify water-efficient products and
32 programs through independent testing and certification.
33

34 **EPA WATERSENSE LABEL.** Label that indicates a product and programs met all of
35 the water efficiency and performance criteria established by the EPA WATERSENSE
36 program.
37

38 **EXTERIOR MANAGEMENT PLAN (EMP).** A two-year plan to employ site best
39 management practices that significantly reduce water use, and chemical use.
40

41 **GRAYWATER.** Wastewater from bathroom sinks, bathtubs, showers, and laundry which
42 is not used to wash diapers or other similarly soiled or infectious garments.
43

44 **HAND WATERING.** The application of water for irrigation purposes through a hand-
45 held hose, including hoses moved into position by hand and left to flow freely or through
46 a shut-off nozzle.
47

**CONTINUATION PAGE 4 AN ORDINANCE REPEALING AND AMENDING WATER
CONSERVATION REQUIREMENTS SECTIONS 30-241 THROUGH SECTIONS 30-251**

1 HIGH-WATER-USE PLANTS. Plants that are classified as high-water-use on the plant
2 list maintained by the ABCWUA.

3
4 HIGH-WATER-USE TURF. Turfgrass that is classified as high-water-use on a list
5 approved by Bernalillo County.

6
7 INFILTRATION RATE. The amount of water absorbed by the soil per unit of time,
8 usually expressed in inches per hour.

9
10 LANDSCAPE AREA. The entire parcel minus any undisturbed un-irrigated natural
11 areas, building footprints, driveways, non-irrigated portions of parking lots, decks, patios
12 or other non-porous areas.

13
14 LARGE MULTI FAMILY DEVELOPMENT. Residential developments with 8 or more
15 dwelling units on the same parcel.

16
17 LOW-WATER-USE PLANTS. Plants that are classified as low-water-use on the plant
18 list maintained by the ABCWUA.

19
20 MEDIUM-WATER-USE PLANTS. Plants that are classified as medium-water-use on
21 the plant list maintained by the ABCWUA.

22
23 NEW DEVELOPMENT. Any development that requires a building permit including
24 remodels and additions.

25
26 NEWLY SEEDED. Seed planted in a prepared area with the intent of establishing a turf
27 area.

28
29 ORNAMENTAL LANDSCAPE AREA. Landscapes that are designed strictly for
30 decorative and aesthetic value and have no functional area for activities.

31
32 PARK. An area of land set aside for public use that is permanently maintained for
33 community recreational and quality of life enhancement purposes.

34
35 PASSIVE WATER HARVESTING. The use of earthworks and contouring such as
36 berms, swales, terracing, and depressions to direct and control rainwater runoff where it
37 can infiltrate into soil to be used by vegetation.

38
39 PRIVATE PARK. A Park which is permanently maintained by the owner or Property
40 Holders Association, not a local government.

41
42 PUBLIC RIGHT-OF-WAY. The area of land acquired or obtained by the city, county, or
43 state primarily for the use of the public for the movement of people, goods, vehicles, or
44 storm water. For the purposes of this ordinance the public right-of-way shall include
45 sidewalks, curbs, streets, and storm water drainage inlets.

46

**CONTINUATION PAGE 5 AN ORDINANCE REPEALING AND AMENDING WATER
CONSERVATION REQUIREMENTS SECTIONS 30-241 THROUGH SECTIONS 30-251**

1 RESPONSIBLE PARTY. The owner, tenant, manager, supervisor, or person in charge of
2 the property, facility, or operation during the period of time the violation is observed.

3
4 PRECIPITATION SUPPORTED PLANTS. Plants that are classified as precipitation
5 only the plant list maintained by the ABCWUA. Additional plants may be approved if
6 they have demonstrated survivability in the local environment under precipitation only
7 conditions.

8
9 RAINWATER HARVESTING. The use of active or passive methods to capture and use
10 rainwater runoff on the property.

11
12 RUNOFF. Precipitation, snowmelt, or irrigation water that is not absorbed by the soil and
13 moves across ground surfaces.

14
15 SINGLE FAMILY DEVELOPMENT. A building designed to be occupied by one
16 family and containing one kitchen.

17
18 SMALL MULTI FAMILY DEVELOPMENT. Properties that contain more than 1 and
19 less than 8 dwelling units.

20
21 SMART IRRIGATION CONTROLLER. Irrigation controller that uses site specific and
22 local information such as soil moisture, rain, wind, slope, soil types, plant type, etc. to
23 apply the proper amount of water to meet the plant water requirements.

24
25 SOIL AMENDMENT PROGRAM. A program approved by Bernalillo County to
26 incorporate compost or other approved material into the soils in the Landscape Area to
27 improve the nutrient and water holding capacity of the soil.

28
29 SPRAY IRRIGATION. The application of water to landscaping by means of a device
30 that projects water through the air in the form of small particles or droplets.

31
32 WATER UTILITY AUTHORITY CUSTOMER. Any person, association, corporation or
33 other entity receiving Albuquerque Bernalillo County Water Utility Authority water
34 service.

35
36 WATER WASTE. The nonbeneficial use of water. Nonbeneficial uses include but are not
37 restricted to:

- 38
39 (1) Landscape irrigation water applied in such a manner, rate and/or quantity that
40 it causes runoff onto adjacent property or public right-of-way;
41 (2) Landscape irrigation water which leaves a sprinkler, sprinkler system, or other
42 application device in such a manner or direction as to spray onto adjacent
43 property or public right-of-way;
44 (3) Water provided through the Middle Rio Grande Conservancy District or
45 community acequia systems for irrigation purposes applied in such a manner, rate
46 and/or quantity that it overflows the area being watered and runs onto adjacent
47 property or public right-of-way.

- 1 (4) Flow resulting from temporary failures or malfunctions of water supply
2 system when the failure or malfunction is not repaired within 48 hours.
3

4 **Section 7. OUTDOOR WATERING RESTRICTIONS**
5

6 The restrictions in this section apply to all properties within unincorporated
7 Bernalillo County not provided water service by the ABCWUA.
8

9 (A) All spray irrigation during the period beginning on April 1 and ending on
10 October 31 of each year must occur between 7:00 p.m. and 11:00 a.m. This restriction
11 shall not apply to drip irrigation and low precipitation bubblers, hand watering, or
12 watering of containerized plants and plant stock.
13

14 (B) During periods when the New Mexico Drought Monitoring Committee
15 determines the drought status as either a drought watch, drought warning or drought
16 emergency the Board of County Commissioners, may impose additional increasingly
17 stringent mandatory watering restrictions such as, but not limited to:
18

- 19 1. Restrictions on planting new sod or turfgrass seed;
20 2. Restrictions on vehicle washing at residences;
21 3. Restrictions on the use of ornamental fountains;
22 4. Further restrictions on outdoor watering.
23

24 Or

25 Additional restrictions as defined in a Drought Management Plan adopted by the
26 Bernalillo County Board of County Commissioners.
27

28 (C) Restrictions in divisions (A) and (B) above do not apply to the following:
29

- 30 1. Irrigation necessary for one day only where treatment with an application of
31 chemicals requires immediate watering to preserve an existing landscape or to
32 establish a new landscape;
33 2. Water used to control dust or compact soil;
34 3. Attended watering systems that have one or more repair or maintenance
35 personnel present at the irrigated zone being serviced for purposes of inspecting
36 system condition and function and/or repairing or maintaining the watering
37 system;
38 4. Water provided through the Middle Rio Grande Conservancy District or
39 community acequia systems for irrigation purposes.
40

41 (D) Guidelines for Parks, Athletic Fields and Golf Courses.
42

- 43 1. Parks and golf courses shall use medium and low water use plants as much as
44 possible. High water use turf or other restricted plants shall be allowed only in
45 those areas with heavy usage or foot traffic, such as athletic fields, playgrounds,
46 golf course tees, greens, and fairways.
47

**CONTINUATION PAGE 7 AN ORDINANCE REPEALING AND AMENDING WATER
CONSERVATION REQUIREMENTS SECTIONS 30-241 THROUGH SECTIONS 30-251**

2. All parks in the unincorporated area of Bernalillo County should use less than 35 inches of water per acre of landscape area per year. Usage will be calculated on a per individual park basis and shall include all water supplies except reclaimed wastewater or other non-potable water sources.

3. Athletic fields and golf courses in the unincorporated area of Bernalillo County should use less than 45 inches of water per acre of landscape area per year. Usage will be calculated on a per individual athletic field basis and shall include all water supplies except reclaimed wastewater or other non-potable water sources.

4. All Parks, Golf Courses, and Athletic Fields shall use effective water conservation measures and best management practices that are feasible and reasonable for given local conditions, such as but not limited to:

- a. Evapotranspiration or soil moisture irrigation control;
- b. High water-use turf removal or replacement;
- c. Leak detection and repair systems or programs;
- d. Irrigation system efficiency improvements.

Section 8. WATER WASTE

The restrictions in this section apply to all properties within unincorporated Bernalillo County. Operators of public or private utilities shall not be responsible for violations of this section incurred by their customers.

(A) No person, entities or properties shall cause or permit water waste.

(B) The restrictions in paragraph (A) of this section do not apply to the following:

- 1. Storm runoff allowed under provisions of the City of Albuquerque or Bernalillo County drainage ordinances as currently adopted or subsequently amended;
- 2. Flow resulting from temporary water supply system failures or malfunctions. These failures or malfunctions shall be repaired within 48 hours of notification or the system shut off until repair can be completed;
- 3. Flow resulting from temporary irrigation ditch failures or malfunctions. These failures or malfunctions shall be repaired immediately and the irrigation ditch shut off until repair can be completed;
- 4. Flow resulting from firefighting or routine inspection of fire hydrants or from fire training activities;
- 5. Water applied as a dust control measure;
- 6. Water applied to abate spills of flammable or otherwise hazardous materials; where water is the appropriate methodology;
- 7. Water applied to prevent or abate health, safety, or accident hazards when alternate methods are not available;
- 8. Flow resulting from routine inspection, operation, or maintenance of a utility water supply system;

9. Flow resulting from well testing, sampling, or monitoring conducted as part of a hydrologic study or well test;
10. Water used in the course of installation or maintenance of traffic flow control devices;
11. Water used for construction or maintenance activities where the application of water is the appropriate methodology and where no other practical alternative exists.

Section 9. DESIGN AND CONSTRUCTION REGULATIONS FOR NEW DEVELOPMENT

This section applies to all New Development.

(A) Single Family and Small Multi-Family Development Requirements.

All New Single Family and Small Multi-Family Development shall use one of the three alternatives listed to select water conservation measures that will be incorporated into the design and construction of the new dwelling.

1. Alternative Number 1. Bernalillo County Water Conservation Measures Worksheet.

- a. Building permit applications for all Single Family and Small Multi-Family Development using Alternative Number 1 shall include a fully and properly completed Water Conservation Measures Worksheet certifying that:
 - (i) Measures selected on the worksheet will reduce indoor water use by at least 20% using plumbing fixtures which are more water efficient than those required in the 2006 Uniform Plumbing Code; and,
 - (ii) All of the selected measures shall be incorporated into the design and construction of the new dwelling; and,
- b. All new Single Family and Small Multi-Family Development using Alternative Number 1. shall comply with the Planting Restrictions in Section 9 Subsection (D); and,
- c. Before obtaining a Certificate of Occupancy, all Single Family and Small Multi-Family Development using Alternative Number 1 may be subject to inspection and approval by a Water Conservation Compliance Officer or other designated staff.

2. Alternative Number 2. Build Green New Mexico Bronze Certification.

- a. Building permit applications for all Single Family and Small Multi-Family Development using Alternative Number 2 shall submit a copy of a fully and

**CONTINUATION PAGE 9 AN ORDINANCE REPEALING AND AMENDING WATER
CONSERVATION REQUIREMENTS SECTIONS 30-241 THROUGH SECTIONS 30-251**

properly completed Build Green New Mexico Property Registration form and Applicant's Affidavit; and,

b. All new Single Family development using Alternative Number 2 shall comply with the Planting Restrictions in Section 9 Subsection (D) or any subsequent modifications to the outdoor requirements of the Build Green New Mexico Program whichever are more stringent; and,

c. Before obtaining a Certificate of Occupancy all Single Family and Small Multi-Family Development using Alternative Number 2 must submit certification from Build Green New Mexico which shows that the dwelling meets a minimum of the Build Green New Mexico Bronze Certification and provide independent verifiers name and address.

3. Alternative Number 3. EPA Watersense Fixtures.

a. Building permit applications for all Single Family and Small Multi-Family Development using Alternative Number 3 shall include a fully and properly completed Water Conservation Measures Form certifying that:

(i) All Toilets installed shall meet EPA Watersense specifications; and,

(ii) All Bathroom Faucets installed shall meet EPA Watersense specifications; and,

(iii) If a Dishwasher is installed by the home builder, it shall be Energy Star qualified; and,

(iv) If a Clothes Washer is installed by the home builder, it shall be Energy Star qualified; and,

(v) Hot water distribution systems should be designed and built to minimize the volume of water between the plumbing fixture and hot water source. This may be accomplished by minimizing pipe runs and reducing diameter of hot water pipes, using demand initiated hot water systems, or other efficient system designs.

b. All new Single Family and Small Multi-Family Development using Alternative Number 3 shall comply with the Planting Restrictions in Section 9 Subsection (D); and,.

c. Before obtaining a Certificate of Occupancy all Single Family and Small Multi-Family Development using Alternative Number 3 will be subject to inspection and approval by a Water Conservation Compliance Officer or other designated staff.

(B) Requirements for Commercial and Large Multi-Family Development.

1. Building permit applications for all new Commercial, Large Multi-Family and Institutional Development shall include a fully and properly completed Commercial Indoor Water Conservation Measures Worksheet certifying that:
 - a. Indoor water use will be reduced by at least 20% using plumbing fixtures which are more water efficient than those required in the 2006 Uniform Plumbing Code; and,
 - b. All of the measures selected on the Commercial Indoor Water Conservation Measures Worksheet shall be incorporated into the design and construction of the new building.
2. Building permit applications for all new Commercial and Large Multi-Family Development on more than 1 acre shall include a fully and properly completed Commercial Outdoor Water Conservation Plan and Site Plan that includes three (3) of the following seven (7) outdoor water conservation measures related to landscaping. One of the three (3) options completed must include option i, ii, or iii. After January 1, 2016 all New Development shall comply with four (4) of the following seven (7) water conservation measures. One of the four (4) options completed must include option i, ii or iii. All New Development shall comply with the Planting Restrictions in subsection (D) of this section. The Commercial Outdoor Water Conservation Plan shall be reviewed for approval by the County Geohydrologist or other designated County official. Approval of Commercial Outdoor Water Conservation Plan and Site Plan by the County will be based on the Water Conservation Plan Criteria below unless the applicant proposes alternative methods that provide equivalent or greater water conservation.
 - a. Water Conservation Plan Criteria

The plan shall include three (3) of the following seven (7) outdoor water conservation measures related to landscaping. One of the three (3) options completed must include option i, ii, or iii. After January 1, 2016 all New Development shall comply with four (4) of the following seven (7) water conservation measures. One of the four (4) options completed must include option i, ii or iii. All New Development shall comply with the Planting Restrictions in subsection (D) of this section.

 - (i) At least 25% of the Landscape Area shall be Precipitation Supported Plant Material. Irrigation may be used for establishment of the precipitation supported plant material, but the area shall be zoned separately from any other landscaped area. If this option is chosen, then option vii. must also be completed and the irrigation to the area should be shut-off within 2 years and identified in the EMP. After January 1, 2013 35 % of the Landscape Area shall be

CONTINUATION PAGE 11 AN ORDINANCE REPEALING AND AMENDING WATER
CONSERVATION REQUIREMENTS SECTIONS 30-241 THROUGH SECTIONS 30-251

provided by Precipitation Supported Plant Material. After January 1, 2016 45 % of the Landscape Area shall be provided by precipitation supported plant material.

(ii) Passive water harvesting shall occur on at least 25% of the landscape area. The irrigation system shall be designed so that the water harvesting areas are zoned separately from non-water harvesting areas. After January 1, 2013 Passive Water Harvesting shall occur on 35 % of the landscape area. After January 1, 2016 Passive Water Harvesting shall occur on 45 % of the landscape area.

(iii) 100% of the irrigation water supply shall be from a non-potable municipal, private or well source. Non-potable water supplies will need to be officially documented and confirmed.

(iv) A smart irrigation controller (Smart Controller) shall be designed and installed to control all of the irrigation system for the Landscape Area. The smart controller must be from a list approved by Bernalillo County.

(v) An approved Soil Amendment Program is used during installation of the landscape to improve the nutrient and water holding capacity of the soil.

(vi) Non-potable water shall be collected and stored for use as the primary water source for landscape irrigation. Storage capacity shall be a minimum of 50% of the peak month landscape demand for the property.

(vii) An Exterior Management Plan (EMP) shall be developed and submitted to the County with other project documents. The EMP is a 2-year commitment to employ best management practices that significantly reduce water use, chemical use, and water runoff as compared with standard practices.

3. All New Commercial Development less than 1 acre may follow the guidelines for outdoor water use in B. 2. above, or use a smart controller for all landscape areas, use only low and medium use plants, and have no spray irrigation.

4. All new Large Multi Family residential development including mobile home parks with more than 8 units shall have separate meters or sub-metering for water service to all dwelling units.

(C) Remodels and Additions

1. All remodels and additions for Single Family and Small Multi Family Development shall use EPA Watersense labeled fixtures for any new plumbing fixture installed. Existing plumbing fixtures not included in the remodel shall be evaluated for replacement using incentive programs from Bernalillo County or the ABCWUA.
2. All remodels on Commercial and Large Multi Family Development shall use EPA Watersense labeled fixtures for any new plumbing fixture installed. All remodels on Commercial and Large Multi Family Development which affect more than 50% of the existing plumbing fixtures shall use EPA Watersense labeled plumbing fixtures for any new fixture installed and upgrade any existing fixtures using EPA Watersense labeled fixtures. All additions on Commercial Large Multi Family Development which increase the floor area of the existing building by more than 50% of the existing square footage shall use EPA Water sense labeled plumbing fixtures for any new fixture installed and upgrade any existing fixtures using EPA Watersense labeled fixtures.
3. All landscaping plantings that are added or replaced as part of a remodel or addition on Commercial Large Multi Family Development shall be from the low-water-use approved plant list. Any existing landscaping may remain.

(D) Restrictions on Landscape Planting, Ponds, and Irrigation Systems.

1. All properties other than County owned parks, golf courses and athletic fields shall not be designed and constructed to use high water use turf or plants on more than 10% the landscape area, except;
 - a. For Single Family and Small Multi-Family Development, the use of high water use plants shall not exceed 1,500 square feet of the landscape area;
 - b. In the event that 10% of the landscape area is less than 300 square feet, high water use turf and other high water use plants may be used on up to 300 square feet of the landscape area;
 - c. Large Multifamily Development may use high water use turf on up to 30% of the Landscape Area as long as no dimension of the turf area is less than ten (10) feet. Swimming pools will be considered the same as high water use turf for the purposes of this limitation;
 - d. Properties zoned A-1 Agricultural with access to water provided through the Middle Rio Grande Conservancy District or community acequia systems for irrigation purposes may use high water use turf or other high-water-use plants in the Landscape Area supplied by irrigation water;
 - e. Private Parks may have up to 10% of the Landscape Area in high water use turf or other high water use plants. If grading and drainage plan details demonstrate that water harvesting will support up to 30% high

CONTINUATION PAGE 13 AN ORDINANCE REPEALING AND AMENDING WATER
CONSERVATION REQUIREMENTS SECTIONS 30-241 THROUGH SECTIONS 30-251

water use turf or plants then up 30% of the Landscape Area may be high
water use turf or plants;
f. Private Parks which are supplied by 100% utility-provided non-potable
water may have up to 30% of the Landscape Area in high water use turf or
plants.

2. Street medians, streetscapes, Ornamental Landscapes and common areas of
subdivisions shall not be designed and constructed with high-water use turf and
other high-water use plants. Street medians, streetscapes, Ornamental Landscapes
and common areas of subdivisions that are included in a grading and drainage
plan shall be evaluated for water harvesting opportunities during the grading and
drainage plan review.

3. Ornamental ponds shall not be designed and constructed to exceed 500 square
feet of surface area. Ornamental fountains shall not be designed and constructed
to exceed 250 square feet of surface area. Multiple water features on the same
property will be considered together to determine surface area. Flowing water
used in fountains, waterfalls and similar features shall be re-circulated. Ponds and
fountains shall be designed to be consistent with the requirements of all applicable
local and state regulations.

4. The List of Low, Medium, and High Water Use Plants maintained by the
ABCWUA will be the approved plant list for landscape planting. Exceptions and
additions to this list may be approved if documented proof of water use can be
demonstrated for the area of intended use.

5. The List of Precipitation Only Plants maintained by the ABCWUA will be the
approved plant list for Precipitation Supported landscape planting. Exceptions
and additions to Precipitation Only Plant List may be approved if documented
proof of water use can be demonstrated for the area of intended use.

(E) Irrigation Systems.

1. All irrigation systems shall be designed and installed to meet all minimum
standards established by the current editions of uniform plumbing code and
uniform mechanical code. All irrigation systems should use currently accepted
water conservation design principals to maximize efficiency of the irrigation
system.

2. Spray irrigation systems shall not be designed and constructed for use on slopes
greater than four feet of horizontal distance per one foot vertical change (4:1).

3. Spray irrigation systems shall not be designed and constructed to apply water to
any area within eight feet of a street curb or storm sewer inlet. These areas may
be irrigated by drip, bubbler, soaker or sub-surface irrigation systems.

4. Spray irrigation systems shall not be designed and constructed using sprinkler heads that are closer than eight inches to impermeable surfaces.

5. Spray irrigation systems shall not be designed and constructed to be used in areas less than ten feet in any dimension excepting within back or side yards of residential properties, or where such an area is contiguous with adjacent property so that the dimension totals ten feet minimum. Spray irrigation systems shall not be designed and constructed to be used on any area less than 15 feet in any dimension within parking lots. These areas may be irrigated by drip, bubbler, soaker or sub-surface irrigation systems.

Section 10. EXEMPTIONS

(A) An application for an exemption shall be filed with the County Manager or his/her designee on a form and accompanied by such data and information as may be prescribed.

(B) The request for exemption shall contain the following information:

- (1) Specific exemption, or exemptions requested;
- (2) Duration of time for requested exemption;
- (3) Address of location where exemption is requested;
- (4) Proposed location on premises of the exemption is requested;
- (5) Previous temporary exemptions;
- (6) Physical size and dimensions of area where exemption is requested;
- (7) Other data and information to support the need for the exemption request.

(C) Exemptions to Section 7 (Outdoor Watering Restrictions) and Section 9 (Design and Construction Regulation for New Development (D) Planting Restrictions) may be issued for agricultural purposes for properties with wells and associated water rights permitted for agricultural irrigation by the office of the State Engineer of New Mexico until such agricultural use ceases.

(D) Exemptions to Section 7 (Outdoor Watering Restrictions) may be issued for a period not to exceed 60 days to establish a Newly Seeded turf area on Properly Prepared Ground which has been cultivated and prepared to sow turfgrass seed to establish a new turf area.

(E) Exemptions to Section 7 (Outdoor Watering Restrictions) may be issued for a period not to exceed 30 days to establish newly sodded turf and/or landscape.

(F) Exemptions to Section 7 (Outdoor Watering Restriction) may be issued for a period not to exceed 45 days to establish inter-seeded areas within an established turf area.

(G) Exemptions to Section 9 Subsection (A), 2. Alternative Number 2 may be issued if the Single Family and Small Multi-Family Development fails the energy

**CONTINUATION PAGE 15 AN ORDINANCE REPEALING AND AMENDING WATER
CONSERVATION REQUIREMENTS SECTIONS 30-241 THROUGH SECTIONS 30-251**

1 certification of BGNM requirements but the water conservation requirements in this
2 ordinance are met.

3
4 (H) An exemption for alternate methods for compliance with the specific
5 requirements or the technical specifications of this ordinance may be approved if the
6 applicant: 1) shows that compliance with requirements would pose an unreasonable
7 burden; 2) proposes alternative methods that would provide equivalent or greater water
8 conservation than those required in this ordinance.

9
10 In order to be considered, the exemption application shall describe the specific
11 requirement(s) for which an alternate requirement is requested, justify the request by
12 explaining the site specific circumstances that make compliance with the requirements
13 unreasonably burdensome, and propose specific alternate solutions with verifiable
14 documentation that the alternate solution will provide equivalent or greater water
15 conservation than those required in this ordinance.

16
17 (I) Exemptions to Section 9 (Design and Construction Regulation for New
18 Development Subsection (D) Planting Restrictions) may be issued for new Commercial
19 Development for properties with access to water provided through the Middle Rio
20 Grande Conservancy District or other community surface water systems with associated
21 water rights permitted for agricultural irrigation by the office of the State Engineer of
22 New Mexico. The exemption shall apply only to the areas of the landscape which are
23 used for agricultural purposes.

24
25 **Section 11. APPEALS**

26
27 (A) Appeal of Section 10 (Exemptions), A responsible party may appeal
28 exemption application decisions to the Zoning Administrator by filing an appeal within
29 15 days of receiving an exemption decision. The exemption decision shall provide
30 information on the right to appeal and the procedures to follow.

31
32 (B) The appeal shall identify the property and state the grounds of appeal together
33 with all material facts in support thereof. When a hearing is requested, the Zoning
34 Administrator shall send written notice by certified mail, return receipt requested, to the
35 appellant of the time and place of the hearing.

36
37 (C) If an appeal is received within the 15 business day time limit, the Zoning
38 Administrator shall hold a hearing within 15 business days after receipt of the request.
39 The County shall, in writing, notify the person who requested the hearing of the date,
40 time, and place of the hearing. The County shall, in writing, notify all persons who were
41 sent notice of the exemption decision of the date, time and place of the hearing. In the
42 hearing, the burden of proof shall be upon the person who requested the appeal.

43
44 (D) Hearings shall be held at the offices of the County or at another public
45 facility.

46

**CONTINUATION PAGE 16 AN ORDINANCE REPEALING AND AMENDING WATER
CONSERVATION REQUIREMENTS SECTIONS 30-241 THROUGH SECTIONS 30-251**

1 (E) The hearings shall be conducted so that all relevant views, arguments and
2 testimony are fairly presented without undue repetition. The Zoning Administrator shall
3 allow the County, the applicant and the person who requested the hearing to call and
4 examine witnesses, to submit written and oral evidence and arguments, to introduce
5 exhibits, and to cross-examine persons who testify. The rules of civil procedure and the
6 rules of evidence shall not apply.
7

8 (F) Based upon the evidence presented at the hearing, the Zoning Administrator
9 shall affirm, modify, or reverse the exemption application decision. The Zoning
10 Administrator decision shall be in writing, and a copy of the decision shall be mailed to
11 the applicant and the person who requested the hearing within 7 working days.
12

13 **Section 12. EFFECTIVE DATE**

14
15 The effective date of this article shall be October 1, 2010.
16
17
18

CONTINUATION PAGE 17 AN ORDINANCE REPEALING AND AMENDING WATER
CONSERVATION REQUIREMENTS SECTIONS 30-241 THOUGH SECTIONS 30-251

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

DONE this ____ day of _____, 2010.

APPROVED AS TO FORM

County Legal

ATTEST:

Maggie Toulouse, County Clerk

BOARD OF COUNTY COMMISSIONERS

Art De La Cruz, Chair

Maggie Hart Stebbins, Vice Chair

Alan B. Armijo, Member

Michael C. Wiener, Member

Michael Brasher, Member